

JOSEPH P. RUSSONIELLO (CSBN 44332)  
 United States Attorney  
 BRIAN J. STRETCH (CSBN 163973)  
 Chief, Criminal Division  
 SUSAN B. GRAY (CSBN 100374)  
 Assistant United States Attorney

450 Golden Gate Ave., Box 36055  
 San Francisco, CA 94102  
 Telephone: (415) 436-7324  
 Facsimile: (415) 436-6748  
 Email: [susan.b.gray@usdoj.gov](mailto:susan.b.gray@usdoj.gov)

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 1. APPROXIMATELY \$61,505.00 IN )  
 UNITED STATES CURRENCY, and )  
 )  
 2. APPROXIMATELY \$34,320.00 IN )  
 UNITED STATES CURRENCY, )  
 )  
 Defendants. )  
 )  
 FRANK JOSEPH ALIOTO, JR., )  
 )  
 )  
 Claimant. )  
 )  
 )

Nos. C-07-5413 MMC  
 08-0318 MMC  
 (Related Cases)

**JOINT CASE MANAGEMENT  
 STATEMENT**

CMC Date: April 25, 2008  
 Time: 10:30 a.m.

Courtroom 7, 19<sup>th</sup> Floor

Plaintiff, United States of America and claimant, Frank Joseph Alioto, Jr., respectfully submit this Joint Case Management Statement.

**1. Jurisdiction and Service**

This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1355 and Title 21, United States Code, Section 881(a)(6). There are no counterclaims. Plaintiff contends that it has served notice of this action on all persons who may have an interest in the property. Frank Joseph Alioto, Jr., ("Alioto"), represented by David Michael, has filed a verified

1 claim and an answer in both cases. To date, no other claims have been filed in this action.

2 **2. Facts**

3 The Court has before it two civil forfeiture cases which were consolidated by the court in  
4 January 2008. The first, Case No. 07-541 MMC, is a civil forfeiture action against  
5 approximately \$61,505 in United States Currency seized from Frank Alioto, Jr. at the San  
6 Francisco Airport on May 30, 2007. The complaint sets forth the details of the May 30, 2007,  
7 seizure. It also sets forth facts concerning another seizure of funds (\$34,320) from Frank Alioto,  
8 Jr., which took place at the Oakland Airport on August 16, 2007. The second seizure was not  
9 charged in the initial complaint because the funds were then in the administrative forfeiture  
10 process. If no claim was filed, a judicial forfeiture proceeding would not have been necessary.  
11 However, Frank Alioto, Jr. did file an administrative claim and the case was referred to the  
12 United States Attorney's office for civil forfeiture.

13 On January 17, 2008, the United States filed a complaint seeking forfeiture of the  
14 defendant \$34,320 which was seized at the Oakland Airport on August 16, 2007. The complaint  
15 was assigned to Judge Conti. (CV-08-0318 SC) The complaint set forth the same facts regarding  
16 the first and second currency seizures alleged in the first complaint, with a few additions in  
17 paragraphs 29, 30 and 31.

18 Given the similar and overlapping nature of the parties, facts and legal issues, the parties  
19 stipulated that the cases should be related. On January 29, 2008, this Court related the cases.

20 **3. Principal Factual and Legal Issues**

21 The principal factual and legal issues in dispute are: 1) whether plaintiff can establish by  
22 a preponderance of the evidence that the defendant currency is drug proceeds and thus forfeitable  
23 under Title 21, United States Code, Section 881(a)(6) and 2) whether claimant, Alioto, can  
24 establish by a preponderance of the evidence that he is the innocent owner of the defendant  
25 currency.

26 **5. Anticipated Motions**

27 All parties may move for summary judgment at the close of discovery.

28 **6. Relief/Damages**

Plaintiff seeks a judgment of forfeiture of the defendant currency. This is not a damages case. Claimants seek the return of the defendant currency.

### 7. Settlement

At this juncture, matters are far too undeveloped to ascertain the possibility of settlement.

### 8. Discovery

This is an *in rem* forfeiture case and is exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26 (a)(1)(B)(ii). The parties have not engaged in any significant discovery of the case. Claimant, Alioto, has served plaintiff with interrogatories and requests for production of documents. The United States expects to serve claimant with discovery within the next 30 days. The parties suggest another case management conference would be appropriate in four months.

### 9. Alternative Means of Disposition

Plaintiff does not request reference to arbitration.

### 10. Pretrial/Trial Issues

The parties have not yet discussed any trial issues.

### 11. Class Action

This is not a class action.

### 12. Related Case

There are no related cases.

### 13. Other Matters –

None.

Respectfully submitted,

JOSEPH P. RUSSONIELLO  
United States Attorney

Dated: April 18, 2008

/S/  
SUSAN B. GRAY  
Assistant United States Attorney

Dated: April 18, 2008

/S/  
DAVID M. MICHAEL, ESQ.  
Attorney for Claimant, Frank Joseph Alioto, Jr.